

Exhibit 2

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors

Case No. 12-12020 (MG)

Chapter 11

Jointly Administered

DEPOSITION OF CHRISTOPHER JOHN BROWN

DATE: December 18, 2012

HUDSON REPORTING & VIDEO, INC.

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TRANSCRIPT of the deposition, said
deposition being conducted pursuant to Rules
Governing Civil Practice in the Superior Court
of New Jersey, by and before MARK IUZZOLINO,
Certified Shorthand Reporter, License No.
X101103, at the offices of Morrison Foerster,
LLP, 1290 6th Avenue, New York, NY, on December
18, 2012, commencing at 9:34 a.m.

1 A. It was.

2 Q. Were you offered to the Court as an
3 expert witness?

4 A. I was.

5 Q. Was that a litigated matter?

6 A. Yes.

7 Q. Did you go through a qualification
8 set of questions before the Court?

9 A. I did. I believe it was called being
10 "voir dired" or something.

11 Q. Uh-huh.

12 A. Yes.

13 Q. And Court accepted you as an expert?

14 A. Yes.

15 Q. And that would be an expert in
16 valuation?

17 A. Valuation and restructuring matters.

18 Q. Okay. What was the general subject
19 matter of your report?

20 A. It was the valuation of the company.

21 Q. What was the date of that?

22 A. That confirmation hearing was earlier
23 this year. I don't recall the exact date. I
24 think it may have been May.

25 Q. Do you recall the name of the judge

1 before whom you appeared?

2 A. Sure. It was Judge Chapman.

3 Q. The other matter you mentioned was
4 Pension Benefit Guaranty Corporation?

5 A. Correct.

6 Q. Did you prepare a report in that
7 matter?

8 A. We did. The matter settled before it
9 went to trial, though.

10 Q. All right. Were you deposed in that
11 case?

12 A. I was.

13 Q. Were you deposed in the Ambac matter?

14 A. I was not.

15 Q. But in the Pension Benefit Guaranty
16 Corporation you were deposed, but not -- you
17 didn't testify at trial?

18 A. Correct.

19 Q. What was the general subject matter
20 of your report for Pension Benefit Guaranty?

21 A. It was an analysis of the risks that
22 were contained within a portfolio.

23 Q. A portfolio of what?

24 A. Of financial assets.

25 Q. Bonds, stocks?

1 A. Miscellaneous financial assets.

2 Q. Again, you were there a valuation
3 expert?

4 A. Yes.

5 Q. How many times, then, have you
6 deposited in your career?

7 A. I believe this is the fourth.

8 Q. One of the other three was Pension
9 Benefit Guaranty?

10 A. That's correct.

11 Q. And what were the other two?

12 A. One other was in Hostess.

13 Q. What was your role there?

14 A. We were advising the unsecured
15 creditors' committee. And there was -- there
16 was a matter regarding a term within a
17 confidentiality agreement. And I put in a
18 declaration that discussed whether that term
19 was standard or not in my experience in
20 connection with doing other M&A processes.

21 Q. That wasn't a financial issue.
22 Correct?

23 A. It was a financial issue in that it
24 had to do with the sale of an asset and how
25 you'd go about conducting a sale of an asset.

1 So if you can consider the sale of an asset a
2 financial matter, it was a financial matter in
3 that regard.

4 Q. Okay. Was that this year?

5 A. That was earlier this year, yeah.

6 Q. What judge?

7 A. Glenn.

8 Q. And the fourth time on which you've
9 been deposed, what was that?

10 A. That was in connection with TerreStar
11 Corporation.

12 Q. What was the nature of that issue?

13 A. There was litigation with a creditor.
14 And we were advisor to the debtor. The
15 creditor was arguing about their role or their
16 potential status as a critical vendor. And I
17 was deposed in connection with a meeting I had
18 with the CEO of that company.

19 Q. That was really as a fact witness,
20 then?

21 A. Correct.

22 Q. If I understood your testimony
23 correctly, you've actually been qualified once
24 as an expert witness in court?

25 A. Yes.

1 Q. What are you an expert in?

2 A. I'm an expert in valuation and, I
3 would say, valuing assets and liabilities and
4 restructuring matters.

5 Q. Are you an expert in mortgage-backed
6 securities?

7 A. I wouldn't say narrowly defined -- I
8 wouldn't say narrowly defined as an expert in
9 mortgage-backed securities, no.

10 Q. Are you an expert in what we call
11 "rep and warranty liability"?

12 A. As it relates to potential legal
13 matters regarding rep and warranty matters, no.

14 Q. Well, specifically rep and warranty
15 litigation or rep and warranty liability in the
16 mortgage-backed security arena.

17 A. Much of the work that I did in
18 connection with Ambac was involving rep and
19 warranty matters, so I'm very familiar with
20 them, yeah.

21 Q. Are you an expert in that area?

22 A. I would say I'm very familiar with
23 the topics.

24 Q. Are you a statistician? Are you an
25 expert in statistics?

1 A. I've taken several courses in
2 statistics in connection with getting my MBA,
3 but ...

4 Q. Do you hold yourself out as a
5 statistician?

6 A. I don't hold myself out as a
7 statistician. I'm not sure what that actually
8 means, but I wouldn't ...

9 Q. Well, if we went to Judge Glenn,
10 would you tell him you're an expert in
11 statistics?

12 A. I would say that I'm very familiar
13 with statistics.

14 Q. Have you published any papers?

15 A. No.

16 Q. Submitted anything to any peer review
17 journal?

18 A. No.

19 Q. Have you received awards or
20 recognitions by your peers indicating that
21 you're a leading light in your field?

22 MR. JURGENS: Objection to form.

23 A. No.

24 Q. Have you ever taught, like, at a
25 college or continuing education classes?

1 to page 9.

2 A. Okay.

3 Q. And I direct your attention to
4 footnote 6 at the bottom of the page. I want
5 to make sure, sir, that I understand first what
6 you are not doing in this matter.

7 You've read Mr. Sillman's report?

8 A. I have.

9 Q. You know that he calculates or
10 assumes a number of different rates in his
11 report?

12 A. Yes.

13 Q. You criticize one of them, his agree
14 rate. Correct?

15 MR. JURGENS: Objection to form.

16 A. Correct.

17 Q. You are not offering any opinion
18 about the audit rate that Mr. Sillman used in
19 his report, are you?

20 A. I am not.

21 Q. Are you offering any opinion about
22 the demand rate that forms part of his
23 calculations in his report?

24 A. I am not.

25 Q. Are you offering any opinion about

1 the breach rate that he used in his report?

2 MR. JURGENS: Objection to form.

3 A. I am not.

4 Q. You're not going to offer any opinion
5 as to the reasonableness of any of the
6 assumptions he used in his report. Correct?

7 MR. JURGENS: Objection to form.

8 A. That's correct.

9 Q. Are you going to offer an opinion
10 about the overall methodology by which he chose
11 to calculate risk exposure here?

12 A. No.

13 Q. Do you have an opinion as to whether
14 MBIA or FGIC or other insurers, whether their
15 claims are being excluded or included in the
16 settlement?

17 MR. JURGENS: Objection to form.

18 A. I am not.

19 MR. SMITH: I have the same
20 objection.

21 Q. Pardon me?

22 A. I am not.

23 Q. You offer an opinion about statute of
24 limitations. But if I understand it correctly,
25 you are not offering an opinion as to whether

1 Do you understand, sir, what the
2 motion that is before Judge Glenn here is
3 about?

4 A. Yes.

5 Q. What is it about?

6 A. It's about establishing a claim size
7 for the repurchase liability.

8 Q. Do you understand that one of the
9 things Judge Glenn will need to decide is
10 whether the proposed 8.7 billion-dollar allowed
11 claim is within a range of reasonableness?

12 A. Yes.

13 MR. JURGENS: Objection to form.

14 Q. Are you going to offer any opinion as
15 to the proper method to use to determine
16 whether that claim size is within a range of
17 reasonableness?

18 MR. JURGENS: Objection to form.

19 A. I am not.

20 Q. And you have no opinion as to whether
21 the proposed allowed claim of 8.7 billion is,
22 in fact, within or outside of a range of
23 reasonableness.

24 MR. JURGENS: Objection to form.

25 Q. Right?

1 A. No. I simply looked at Mr. Sillman's
2 analysis and looked at some flaws and
3 calculated a new range based on correcting
4 those flaws.

5 Q. If I could be a little more precise,
6 I appreciate that you criticized Mr. Sillman.
7 Right?

8 A. Yes.

9 Q. Your conclusion is, his work doesn't
10 support the 8.7 billion-dollar allowed claim?

11 A. Correct.

12 Q. You don't go the next step and say,
13 "I have an opinion that that number is outside
14 the range of reasonableness"?

15 A. That's correct.

16 Q. You haven't gone and done your own
17 analysis of what the range of reasonableness is
18 or should be?

19 A. No, I have not.

20 Q. We talked about statute of
21 limitations.

22 You're aware, aren't you, that there
23 are other potential legal defenses to the
24 claims that would be asserted here by the
25 trusts and their investors? Right?

1 in performing your work. Right?

2 A. Correct. As a critique of his
3 analysis, I assumed some things about his
4 analysis that may be correct.

5 Q. In any event, you didn't embark as
6 part of your work on reevaluating or
7 criticizing his aggregate loss calculation?

8 A. That's correct.

9 Q. What you did is applied discounts to
10 it based on assumptions you were given by
11 counsel?

12 A. Correct.

13 Q. Could I ask you to turn to paragraph
14 6 of Exhibit 1? This is where you introduce
15 your work. And the last sentence says,
16 "Mr. Sillman used several incorrect inputs in a
17 formula he used in his analysis."

18 If I read your report correctly,
19 you've identified two incorrect inputs.
20 Correct?

21 A. Correct.

22 Q. I mean, you say several, but in
23 paragraph 7 you talk about the agree rate. In
24 paragraph 8 you talk about statute of
25 limitations.

1 "GSE loans." Right?

2 A. Correct.

3 Q. And then he applied a discount to it.

4 Correct?

5 A. Correct.

6 Q. And you think that was the wrong
7 thing to do?

8 A. I think the discount that he used
9 seemed somewhat arbitrary.

10 Q. Well, you don't even like the idea
11 that he used GSE data. Correct?

12 A. Correct. I believe he had actual
13 data to use, and I believe he didn't use that
14 actual data.

15 Q. And the actual data is PLS data or
16 data from the trusts that are at issue here?

17 A. Correct.

18 Q. Is that really the nature of the
19 fight, whether he should have used GSE data
20 with a discount or, on the other hand, whether
21 he should have used the PLS data?

22 MR. JURGENS: Objection to form.

23 A. Yes.

24 Q. I'm going to jump into that in a
25 second, but let me first ask you about the

1 MR. JURGENS: Objection to form.

2 A. I don't know if I cared about that.
3 I'm not sure in what sense of the word you mean
4 that.

5 Q. If you wanted to know how many
6 material defects appeared in the population of
7 ResCap's loans, should you take into account
8 loans that ResCap voluntarily repurchased as a
9 result of material defects?

10 MR. JURGENS: Objection to form.

11 A. That's not the analysis that we did.

12 Q. Why not?

13 A. Because we were doing a critique of
14 Mr. Sillman's work.

15 Q. You were doing a critique without
16 asking the larger question: How many material
17 defects are there in ResCap's loans?

18 MR. JURGENS: Objection to form.

19 A. Correct.

20 Q. Why did you not consider the category
21 "unknown"?

22 MR. JURGENS: Objection to form.

23 A. One, because it was a smaller sample
24 size, and it wasn't clear what -- just by
25 virtue of the unknown aspect of these, it was

1 Q. Is Mr. Jurgens, to your knowledge, a
2 statistician?

3 A. No.

4 Q. He may well be. He's a poly math,
5 he's a renaissance man.

6 A. He may be.

7 MR. JURGENS: I don't object to that
8 characterization.

9 Q. Is there -- do you have any basis,
10 sir, upon which to conclude that the counsel's
11 statement to you was based on some sort of
12 statistical analysis about the robustness of
13 the data?

14 A. Yes. I know that 16,000 -- a 16,000
15 sample size is reasonably large with respect to
16 what you'd need to get a reasonable standard
17 error on a population.

18 Q. Even if well over half of them have
19 not been resolved?

20 MR. JURGENS: Objection to form.

21 A. I don't believe that's a proper
22 characterization of the 10,026 items listed in
23 the disagree rescission requested row, as it
24 relates to Mr. Sillman's definition of agree
25 rate.

1 Q. Right?

2 Did you do any statistical work to
3 conclude that the data on Exhibit 3 are a
4 sufficiently robust sample upon which to base
5 conclusions?

6 MR. JURGENS: Objection to form.

7 A. I had my team look at sample sizes in
8 determining other statistical populations to
9 get an understanding of whether or not this
10 size was large enough. And one of the things
11 we looked at was the sample sizes and polls
12 that are taken when something is normally
13 distributed or assumed to be normally
14 distributed and things like political polls.

15 And this size was far larger as a
16 percentage of the total population than in
17 other robust or what are considered robust
18 analyses on sampling. So we did some work on
19 that. I don't have that handy but we did -- we
20 did work on sample size to get an understanding
21 of whether or not this was indeed robust.

22 Q. Where is the work?

23 A. What do you mean where is the work?

24 Q. Sir, maybe you can understand my
25 confusion. I'm reading your report and you

1 give two grounds in paragraph 24 for your
2 conclusion that the PLS data are sufficiently
3 robust. Neither of those grounds says anything
4 about work you and your team did. So it's
5 coming a bit of a surprise to me that you did
6 work on this.

7 MR. JURGENS: Objection to form.

8 Is there a question?

9 Q. Yeah, where is the work?

10 MR. JURGENS: Objection to form.

11 A. There's no work that went into the
12 report. There was general background
13 information that I did to get myself
14 comfortable on some of the statements that are
15 being made. I didn't do any work because I
16 didn't view it as something that was going to
17 be that relevant to the analysis.

18 Q. If you did the work, why did you have
19 to rely on counsel's instructions to you to
20 assume that it was robust?

21 MR. JURGENS: Objection to form.

22 A. I don't understand the question.

23 Q. When a statistician decides whether a
24 sample is sufficiently robust to predict
25 outcomes, what kind of methods do they use to

1 make that decision?

2 MR. JURGENS: Objection to form.

3 A. Various sampling methods.

4 Q. Such as?

5 A. Such as obtaining a certain size
6 given the overall population.

7 Q. How do they decide what size is
8 needed based on the population?

9 MR. JURGENS: Objection to form.

10 A. They use statistical tools.

11 Q. Such as?

12 A. It's just mathematical formulas to
13 determine how much variability there may be in
14 any individual result given an overall
15 population size.

16 Q. It allows you to reach a conclusion
17 about, for example, margins of error. Right?

18 A. Within a margin of error, correct.

19 Q. Did you do that work here?

20 A. No.

21 Q. Why not?

22 A. I relied on what I describe in
23 paragraph 23 primarily.

24 MR. JURGENS: I think he referred to
25 23 and he meant 24.

1 A. Correct.

2 Q. You meant 24?

3 A. Well, in 23 I mention that -- yes,
4 sorry, paragraph 24.

5 Q. Are you going to offer an opinion at
6 trial that the data on Exhibit 3 are
7 sufficiently robust that they form a basis for
8 using PLS data?

9 A. If I am asked to, I suppose I may.

10 Q. Have you been asked to that so far?

11 A. No.

12 Q. And you've not offered that or you're
13 not prepared to offer that opinion today?

14 A. No.

15 Q. The second thing you mention in
16 paragraph 24 is you say you discussed this
17 assumption with an expert in representations
18 and warranties analysis.

19 Can you tell me who the expert is?

20 A. May I ask counsel if I'm permitted to
21 share that information?

22 MR. JURGENS: You could share that
23 information.

24 A. Mr. Connolly.

25 Q. Mister who?

1 A. Mr. Connolly.

2 Q. Who is he?

3 A. He is an expert that the company has
4 used in the past.

5 Q. What's his first name?

6 A. Chris.

7 Q. Chris Connolly?

8 A. Chris Connolly.

9 Q. Where does he work?

10 A. I don't have his background handy. I
11 don't know his background but I know --

12 Q. Does he work at Blackstone?

13 A. No, he does not work at Blackstone.

14 Q. Does he work at MBIA?

15 A. No, he's a consultant for MBIA.

16 Q. How would I find this man?

17 A. I suppose we could put you in touch
18 with him.

19 Q. Did you meet with him in person?

20 A. I had a telephone call with him.

21 Q. Right. What did you say on the call?

22 A. We had a conversation about
23 underwriting standards and -- we had a long
24 call.

25 Q. Did you send him Exhibits 2 or 3 or

1 Q. Isn't that what you and Mr. Connolly
2 did, you just eyeballed the size of the sample
3 and said that must be big enough?

4 MR. JURGENS: Objection to form.

5 MR. BENTLEY: Objection to form.

6 A. I can't speak for Mr. Connolly.

7 Q. Isn't that what you did?

8 A. That is not what I did. I described
9 earlier that I had discussions with
10 Mr. Connolly and I got comfort that way and I
11 also did some general background reading on
12 sample sizes.

13 Q. What are Mr. Connolly's
14 qualifications to be an expert on statistics?

15 A. I'm not familiar with Mr. Connolly's
16 qualifications, though I presume he is well
17 qualified for him to be advising MBIA on these
18 matters.

19 MR. JURGENS: Just note my objection
20 to the prior question.

21 Q. What did Mr. Connolly say about the
22 large number of loans in the disagree
23 rescission requested category?

24 A. I don't recall.

25 Q. Did you ask Mr. Connolly to provide

1 opinion.

2 A. Correct.

3 Q. Right?

4 So do you have an opinion as to what
5 the right reduction method should be?

6 MR. JURGENS: Objection to form.

7 A. I was not asked to opine on that and
8 if I was asked to do so, I would do more work
9 on that and wouldn't want to give you an answer
10 off the cuff.

11 Q. Is there an accepted methodology or
12 methodologies that are common in the industry
13 to use in this situation?

14 MR. JURGENS: Objection to form.

15 A. Not that I'm aware. This is a unique
16 situation.

17 Q. Is it your opinion that the way it's
18 done in the agreement is the wrong way?

19 A. I believe it is an unfair way.

20 Q. Is there a more fair way, sir?

21 A. I'm sure there is.

22 Q. What is it?

23 MR. JURGENS: Objection to form.

24 A. As I said earlier, if I was
25 attempting to do this, I would do much more

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C E R T I F I C A T E

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